

Goodwin Alerts

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CMS Expands Availability of Advances on Medicare Reimbursement; U.S. CARES Act Increases Medicare Reimbursement Rates

by Roger A. Cohen, Madison Marcus

In response to the COVID-19 public health emergency, the Centers for Medicare & Medicaid Services (CMS) announced on Saturday March 28, 2020, that it is expanding its Medicare Accelerated and Advance Payment Program (AAPP) to allow nearly all Medicare providers and suppliers to receive advances on future Medicare reimbursement. To provide further relief to healthcare providers and suppliers, the Coronavirus Aid, Relief, and Economic Security U.S. Cares Act (CARES Act), which was signed into law on March 27, 2020, eliminates from May 1, 2020, through December 31, 2020 the 2% sequestration-mandated reductions to Medicare reimbursement. We review these developments in greater detail below.

CMS EXPANSION OF MEDICARE HOSPITAL ACCELERATED PAYMENT PROGRAM

On Saturday March 28, 2020, CMS announced that it is expanding the AAPP to allow most Medicare Part A and Part B providers and suppliers to request an advance Medicare payment amount for a three- or six-month period, depending on the provider or supplier category. CMS has not provided all information as to how the AAPP will operate in practice, but the information available is summarized here.

Eligibility:

To qualify for advance/accelerated payments the provider/supplier must:

1. Have billed Medicare for claims within 180 days immediately prior to the date of signature on the provider's/supplier's request form,
2. Not be in bankruptcy,
3. Not be under active medical review or program integrity investigation, and
4. Not have any outstanding delinquent Medicare overpayments.

Amount of Payment:

Most providers and suppliers will be able to request up to 100% of the Medicare payment amount for a three-month period. Inpatient acute care hospitals, children's hospitals, and certain cancer hospitals are able to request up to 100% of the Medicare payment amount for a six-month period. Critical access hospitals can request up to 125% of their payment amount for a six-month period. CMS has not detailed how it will calculate the "Medicare payment amount." The calculation method may be dependent on each Medicare administrative contractor's (MAC) request form (described in more detail below).

Processing Time:

Each MAC will work to review and issue payments within seven calendar days of receiving the request.

Recoupment, Repayment and Reconciliation:

The provider/supplier can continue to submit claims as usual and receive full payments for their claims after the issuance of the accelerated or advance payment and recoupment will not begin for 120 days. At the end of the 120-day period, the recoupment process will begin and reimbursement for new claims will be offset to repay the accelerated or advanced payment. Thus, instead of receiving payment for newly submitted claims, the provider's/supplier's outstanding accelerated or advance payment balance is reduced by the claim

payment amount. This process will be automatic. It is not clear based on the announcement whether the MAC will offset the claims in full after the 120-day period, or if they will instead take back a smaller percentage.

CMS has extended the repayment of these accelerated or advance payments to begin 120 days after the date of receipt. The majority of hospitals including inpatient acute care hospitals, children's hospitals, certain cancer hospitals, and critical access hospitals will have up to one year from the date the accelerated payment was made to repay the balance. All other Part A providers and Part B suppliers will have up to 210 days from receipt of the advance payment to complete repayment.

How to Complete the Request Form:

To request an accelerated or advance payment, a qualified Part A or Part B provider or supplier must submit the proper accelerated or advance payment request form to its servicing MAC through the MAC's website or via mail, fax, or email. CMS stated that electronic submission through the [MAC website](#) will substantially reduce processing time. The request forms vary by contractor and can be found on each individual MAC's website. The request form must be complete for the MAC to review and process it. Required information includes:

- Provider/supplier identification information (including legal business name, correspondence address, National Provider Identifier, and other information as requested by the MAC).
- The *specific* amount requested.
- When completing the reason for the request, check the box stating "Delay in provider/supplier billing process of an isolated temporary nature beyond the provider's/supplier's normal billing cycle and not attributable to other third party payers or private patients."
 - State that the request is for accelerated or advance payment due to the coronavirus pandemic.
- Signature of an authorized representative.

Individual MACs may require additional information, such as certain financial information. The MAC will notify the provider/supplier of whether the request was approved or denied via the provider's/supplier's preferred method of contact (email or mail). If the request is approved, payment will be issued within seven calendar days from the date of the request.

For more details on how to request an accelerated or advance payment and the AAPP, please refer to this [CMS Fact Sheet](#).

Program Advances and Indebtedness:

If a provider or supplier is a party to a credit agreement, accelerated or advance payments may be construed as "indebtedness." If you are party to a credit agreement, contact our Debt Finance team to see if accelerated or advance payments are permitted under the credit agreement.

THE U.S. CARES ACT INCREASES MEDICARE REIMBURSEMENT RATES

The [U.S. Cares Act \(CARES Act\)](#) temporarily suspends sequestration-mandated reductions to Medicare claims from May 1, 2020, through December 31, 2020, which will have the effect of increasing Medicare payments to providers. The sequester reduced most Medicare payments by 2% starting in 2013. Effectively, providers will be reimbursed 2% more by Medicare during this period than they have been reimbursed since 2013. Medicare Advantage plans will receive a 2% increase in payment, and depending on the provider's contract with the Medicare Advantage plan, the 2% increase may be passed on to the provider.

In addition, the U.S. Cares Act (CARES Act) creates a new twenty percent add-on to the Hospital Inpatient Prospective Payment System (IPPS) rate for patients diagnosed with COVID-19 under the Medicare hospital

inpatient prospective payment system. However, the COVID-19 add-on payment applies only to hospitals reimbursed under the IPPS.

The U.S. Cares Act (CARES Act) also expands the existing Medicare Hospital Accelerated Payment Program during the COVID-19 public health emergency to encompass additional hospitals and allow hospitals to receive advance payments of up to 100% of the prior period's payments. Prior to the U.S. Cares Act (CARES Act), acute care hospitals and Puerto Rico hospitals with demonstrated cash flow problems are eligible for such payments. The U.S. Cares Act (CARES Act) expands eligibility for accelerated payments to qualifying children's hospitals, dedicated cancer centers and critical access hospitals with cash flow problems. Critical access hospitals will be eligible for up to 125% of the prior period's payments.

Please visit Goodwin's [Coronavirus Knowledge Center](#), where firm lawyers from across the globe are issuing new guidance and insights to help clients fully understand and assess the ramifications of COVID-19 and navigate the potential effects of the outbreak on their businesses.

CONTACTS:

Roger A. Cohen

Partner

+1 212 459 7002

rcohen@goodwinlaw.com

Madison Marcus

Associate

+1 212 459 7291

mmarcus@goodwinlaw.com

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